

General Offices

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December 11, 2003

*Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554*

Re: Ex Parte in CC Docket No. 96-45

Dear Ms. Dortch,

The Pioneer Telephone Cooperative of Kingfisher, Oklahoma ("Pioneer") respectfully offers this response to the recent submission of a position paper by the Rural Cellular Association (the "RCA") entitled "Advancing the Purposes of the Universal Service Fund While Promoting Rural Telecommunications and Rural Economic Development." As addressed below, the title of this paper is misleading and in contrast with many of the positions it espouses.

Although Pioneer is a member of the RCA, the RCA position paper does not speak for us. We are confident, in fact, that this paper does not speak for the many RCA members and other rural telecommunications providers that are committed to the provision of both wireline and wireless services throughout the rural areas of the nation. Pioneer is a community owned cooperative that was initially established to bring basic wireline telephone service to its rural Oklahoma communities. Subsequently, Pioneer established an affiliate to provide cellular services in the rural areas of Oklahoma with which our Cooperative shares a community of interest.

As a rural provider of both wireline and wireless services, Pioneer can attest first-hand to the value of the existing universal service program throughout the rural areas of our nation. We understand that rule changes in the program are under consideration by the Joint Board and we fully support efforts to improve the rules and the universal service program in a manner that truly promotes rural telecommunications and rural economic development. Several of the proposals set forth by the RCA; however, may serve the interests of a few at the expense of the overall public interest and impede the advancement of universal service goals.

In the event that any member of the Joint Board gives credence to the RCA proposals as reflective of rural telecommunications interests, we will be pleased to address these matters in greater detail. In summary, our concerns are as follows:

1. RCA inaccurately states that the Joint-Board and FCC should "Finish the job of removing all implicit subsidies from the marketplace." This RCA position reflects no understanding of the existing regulatory framework created by federal and state regulators to establish a rate design to recover the costs of providing universal service in rural areas on a rational basis that maintains reasonable basic rates. This rate design structure includes the assessment of reasonable local rates, access and interconnection charges, and the provision of sufficient universal service funding. Contrary to the interests of rural consumers and universal service principles, the RCA position paper suggests that the recovery of costs from access charges reflects an implicit subsidy. That suggestion is incorrect, and any resulting proposal to raise further the basic rates and subscriber line charges paid by rural consumers is adverse to universal service objectives.

2. RCA suggests the use of "forward looking cost models for rural areas." This proposal is adverse to the interests of rural consumers, Pioneer, and other RCA members that also provide rural wireline services to rural consumers. RCA's analysis falls short and fails to consider the very specific concerns that the FCC has previously identified with respect to the utilization of so-called "forward looking cost models" in the areas of the nation served by rural telephone companies. RCA attempts to support its position with a reference to the manner in which USF is distributed to competitive ETCs serving rural areas of Mississippi where BellSouth is the incumbent landline provider. This example, however, has no relevance to the issue of whether a model accurately predicts the cost of serving any particular rural area. RCA's use of the Mississippi example only highlights the fact that some competitive carriers in Mississippi draw network cost support on the basis of the per line amount of the \$600 million CALLS USF that BellSouth receives in Mississippi.

3. The single most critical concern raised by the RCA position paper, perhaps, is the RCA proposal to "Cap Support in study areas where competitors have entered," and to "Make support fully portable." The FCC has previously and wisely rejected the proposal to freeze the USF available to a rural telephone company service area. Capping the USF, as proposed by RCA, will chill investment in rural infrastructure. Moreover, continuing the provision of USF network cost support on a portable basis to competitive ETCs is simply anti-competitive and contrary to statutory universal service principles. The distribution of network cost support on this basis has no relationship to the actual amount of network cost support that is sufficient to preserve and advance universal service.

From Pioneer's perspective as a wireline carrier, our community owned cooperative cannot continue to invest in rural telecommunications if we have no reasonable opportunity to recover costs in a rational manner that promotes universal service, as is provided by the high cost support system that exists today. From our perspective as a wireless carrier, we submit that no legitimate universal service objective will be met by capping the amount of universal

service network cost funds available to a telephone company service area and dividing the capped amount among multiple ETC's. That result may serve the short-term interest of some carriers whose objective is to improve their short term bottom-lines and their annual reports to shareholders. Capping USF available to an incumbent rural telephone company service area will not, however, ensure that the support is sufficient to preserve or advance universal service objectives.

Prior to the adoption of the RCA capping proposal by the Joint Board or the FCC, Pioneer urges thorough consideration of the ramifications. In this regard, we respectfully submit that the public interest requires consideration of the impact on the ability of a rural carrier, either wireline or wireless, to finance the provision of telecommunications services in rural areas served by incumbent rural telephone companies. The result of any such inquiry will undoubtedly demonstrate that the implementation of a cap, as proposed by the RCA, will discourage both equity investors and debt finance providers from investing in either rural wireline or rural wireless telecommunications providers.

As a community owned Cooperative providing both rural wireline and wireless services, Pioneer offers the Joint Board and the FCC a perspective that goes beyond the short term parochial interests of any individual carrier or segment of carriers. We can attest to the need for stability and certainty in the existing universal service network cost support mechanism available to incumbent rural telephone companies. We can also attest to the legitimate needs and concerns of rural wireless providers that may genuinely seek to bring universal service to rural areas with wireless technology.

In lieu of the proposals set forth in the RCA position paper, we, together with a group of Oklahoma Rural Telephone Companies (the "ORTC") have suggested consideration of the establishment of an appropriate and distinct mechanism to establish high network cost funds available to competing ETCs, including wireless carriers. The mechanism should be parallel to the existing and specific rules applicable to incumbent rural telephone companies. This mechanism should be founded on three guiding principles:

- 1. States should determine competitive ETC eligibility for fund participation after a determination that such grant of eligibility is in the public interest. In making this required public interest finding, we respectfully submit that the applicable standard must be that the benefits received by the public will exceed the costs associated with the designation.*
- 2. The competitive ETCs should be held to similar regulatory standards and service obligations, as are incumbent rural telephone companies.*
- 3. The network cost support to competing ETCs should be based on a cost methodology more closely reflecting the cost of the competing ETC to provide universal service. Adoption*

of this proposal will eliminate an unintended windfall in the current system that allows a competitive ETC to receive payments on the basis of the cost recovery of the incumbent rural telephone company.

In summary, the adoption of these proposed standards for competitive ETC designation and funding will truly foster the overall public interest objectives of ensuring the provision of services in rural areas at just, reasonable and affordable rates, consistent with the intent of Section 254 of the Telecommunications Act. As both a wireless provider and a member of RCA, we maintain a strong interest in the establishment of rational rules and mechanisms that will properly promote the advancement of wireless services in rural areas. Adoption of the RCA proposals addressed above; however, will not serve rural consumers and universal service objectives. The RCA position paper reflects neither our position nor, we suspect, the position of many of its members, with respect to the need for a thoughtful framework that truly fosters the provision of universal service and the advancement of rural telecommunications.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard Ruhl", written in a cursive style.

*Richard Ruhl
General Manager*

cc: Members of the Joint Board